

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	
)	
DELTA CAREER EDUCATION)	Case No. 18-33822-KLP
CORP., <i>et al.</i> ,)	Chapter 7
)	
<i>Debtors.</i>)	(Jointly Administered)
_____)	

**ORDER APPROVING APPLICATION TO EMPLOY
WHITEFORD, TAYLOR & PRESTON, LLP
AS SPECIAL LITIGATION COUNSEL TO THE CHAPTER 7 TRUSTEE**

THIS MATTER CAME before the Court upon the Trustee’s *Application to Employ Whiteford, Taylor & Preston, LLP as Special Litigation Counsel to the Chapter 7 Trustee* (the “**Application**”), pursuant to section 327(a) and 328(a) of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”), Rules 2014 and 2016(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 2016-1 of the Local Bankruptcy Rules for the Eastern District of Virginia (the “Local Bankruptcy Rules”), and the terms set forth in the Application. After proper notice and due consideration of the Application, the *Declaration of Vernon E. Inge, Jr. in Support of Application for Entry of an Order Authorizing the Employment and Retention of Whiteford, Taylor & Preston, LLP as Special Litigation Counsel to the Chapter 7 Trustee*, it is hereby **ORDERED** as follows:

1. The Trustee’s employment of Whiteford, Taylor & Preston, LLP (“**WTP**”), in accordance with the Application, should be and hereby is **APPROVED**.

2. Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code, the Trustee is

KEPLEY BROSCIOUS & BIGGS, PLC
William A. Broschious, VSB # 27436
2211 Pump Road
Richmond, Virginia 23233
(804) 741-0400 x 202
(804) 741-6175 (facsimile)

Counsel for Harry Shaia, Jr., Chapter 7 Trustee

authorized to employ and to retain WTP to serve as the Trustee's special litigation counsel in these chapter 7 cases pursuant to the terms of the Engagement Letter and this Order.

3. WTP will be compensated for professional services rendered on a contingent fee basis pursuant to the following provisions:

- a. WTP will be compensated for its work on a flat contingency fee basis equal to 1/3 of any recovery received by the Trustee in connection with any claim or cause of action investigated or pursued by WTP. As used herein the term "recovery" shall mean the total amount of cash or cash equivalent paid to the Trustee or otherwise recovered on behalf of the Debtor's estates, whether as a result of a judgment or settlement. Further, such 1/3 of such recovery shall be paid to WTP regardless of and free and clear of any liens or interests asserted by any creditor in the property or funds recovered by the Trustee; *provided however* that the Trustee shall not use or compensate WTP from any cash collateral and/or funds in which Field Point Agency Services, Inc. has a lien to investigate or pursue any claims, counterclaims, causes of action, or defenses against Field Point Agency Services, Inc.
- b. With respect to costs and expenses, WTP will advance reasonable actual and necessary costs and expenses incurred in its representation of the Trustee, not to substantially exceed \$15,000.00. WTP will keep accurate records of its costs and expenses and will seek reimbursement of such costs and expenses pursuant to the Bankruptcy Code and Local Bankruptcy Rules by filing a fee application with the Court for such reimbursement. Subject to the limitation in Paragraph 3.a above, the Trustee will pay the actual and necessary costs incurred by WTP in connection with these cases from the assets of the Debtors' estates after approval by the Court and such amounts shall not be deducted from fees earned.
- c. If requested by the Trustee to withdraw as counsel, WTP will be paid, subject to Court approval, for its services as counsel and its actual costs and expenses incurred up to the date of withdrawal, including fees based on a fair fee for services performed even if the services have not resulted in a gross recovery to the estate at the time of the withdrawal.
- d. WTP reserves the right, after investigation of any claim or potential cause of action, to elect whether or not to pursue such claim or cause of action on behalf of the Trustee and the Debtors' estates. In the event that WTP chooses not to pursue a claim or cause of action, the Trustee may pursue the claim himself, use the counsel he has previously engaged in this Bankruptcy Case,

or seek the Court's approval of the retention of alternative counsel to pursue such claim or cause of action.

4. The contingent fee arrangement between the Trustee and WTP shall be subject to the standard of review set forth in section 328(a) of the Bankruptcy Code; and in connection with such standard after consultation with the Office of the United States Trustee, WTP agrees that it shall submit an application(s) for compensation and reimbursement of expenses, providing: a summary of its services in narrative form, a reasonable estimate of the time spent representing the Trustee in these cases, a list of the professionals rendering such services, and a detailed list of expenses for which reimbursement is sought. The fees and actual costs and expenses of WTP shall be paid pursuant to an Order of the Court following submission of an application(s) for compensation and reimbursement of such costs and expenses.

5. WTP may file interim application(s) with this Court seeking approval of its fees and reimbursement of its actual and necessary expenses after receipt by the Trustee of proceeds from property or funds recovered by the Trustee as a result of WTP's investigation and/or prosecution of claims as contemplated by WTP's representation in these cases.

6. The relief granted herein shall be binding upon all parties in interest in these chapter 7 case and on any successor to or assignee of the Trustee.

7. The requirements set forth in Local Bankruptcy Rule 9013-1(B) that any motion or other request for relief be accompanied by a memorandum of law are hereby deemed satisfied by the contents of the Application or are otherwise waived.

8. The notice procedures set forth in the Application are good and sufficient notice and satisfy Bankruptcy Rule 9014 and provided the counterparties with a notice and an opportunity to object and be heard at a hearing. Notwithstanding any Bankruptcy Rule or Local

Bankruptcy Rule that might otherwise delay the effectiveness of this Order, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

10. The Court shall retain jurisdiction to hear and decide any and all disputes related to or arising from the implementation, interpretation and enforcement of this Order and the engagement of WTP.

Upon entry of this Order, the Clerk is directed to forward copies to all parties listed on the Service List attached hereto.

Dated: May 9 2019

ENTERED: May 9 2019

/s/ Keith L. Phillips

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ William A. Broschious

William A. Broschious, Esquire (VSB #27436)
KEPLEY BROSCIOUS & BIGGS, PLC
2211 Pump Road
Richmond, VA 23233
(804) 741-0400

Counsel for Trustee

SEEN AND NO OBJECTION:

/s/ Sarah B. Boehm

Sarah B. Boehm (VSB # 45201)
McGuireWoods
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916
(804) 775-7487

*Counsel for Ancora Intermediate
Holdings, LLC d/b/a Ancora Education and
Field Point Agency Services, Inc.*

SEEN AND NO OBJECTION:

/s/ Robert B. Van Arsdale

Robert B. Van Arsdale, Esq.
Shannon F. Pecoraro, Esq.
Assistant U.S. Trustee
Office of the U.S. Trustee
701 East Broad Street, Suite 4304
Richmond, Virginia 23219

Office of the United States Trustee

**CERTIFICATE OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

I hereby certify that the foregoing *Order Approving Application to Employ Whiteford, Taylor & Preston, L.L.P. as Special Litigation Counsel to the Chapter 7 Trustee* has been served upon or endorsed by all necessary parties.

/s/ William A. Broschious

William A. Broschious

SERVICE LIST

William A. Broschious, Esquire
Kepley Broschious & Biggs, PLC
2211 Pump Road
Richmond, Virginia 23233

Robert Van Arsdale, Assistant U.S. Trustee
Office of the United States Trustee
U.S. Department of Justice
Eastern District of Virginia – Richmond Division
701 East Broad Street, Suite 4304
Richmond, Virginia 23219

Vernon E. Inge, Jr., Esquire
Whiteford, Taylor & Preston, L.L.P.
901 East Cary Street, Suite 500
Richmond, Virginia 23219

Sarah B. Boehm, Esquire
McGuireWoods
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916

Loc Pfeiffer, Esquire
Peter J. Barrett
Kutak Rock LLP
901 East Byrd Street, Suite 1000
Richmond, Virginia 23219

Certificate of Notice Page 7 of 8
 United States Bankruptcy Court
 Eastern District of Virginia

In re:
 Delta Career Education Corporation
 Debtor

Case No. 18-33822-KLP
 Chapter 7

CERTIFICATE OF NOTICE

District/off: 0422-7

User: manleyc
 Form ID: pdford9

Page 1 of 2
 Total Noticed: 1

Date Rcvd: May 09, 2019

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 11, 2019.

NO NOTICES MAILED.

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
 smg +E-mail/Text: ustpregion04.rh.ecf@usdoj.gov May 10 2019 03:23:05 UST smg Richmond,
 Office of the U. S. Trustee, 701 East Broad St., Suite 4304, Richmond, VA 23219-1849
 TOTAL: 1

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 11, 2019

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 9, 2019 at the address(es) listed below:

Corey Simpson Booker on behalf of Trustee Harry Shaia, Jr cbooker@wtplaw.com,
 eslate@wtplaw.com
 David N Crapo on behalf of Creditor McGraw-Hill Education dcrapo@gibbonslaw.com
 Dion W. Hayes on behalf of Interested Party Field Point Agency Services, Inc.
 dhayes@mcguirewoods.com, kcain@mcguirewoods.com
 Dion W. Hayes on behalf of Creditor STVT-AAI Education Inc. dhayes@mcguirewoods.com,
 kcain@mcguirewoods.com
 Harry Shaia, Jr on behalf of Trustee Harry Shaia, Jr harryshaia@spinella.com,
 marykeller@spinella.com;dianecollins@spinella.com;hshaiajr@ecf.axosfs.com
 Harry Shaia, Jr harryshaia@spinella.com,
 marykeller@spinella.com;dianecollins@spinella.com;hshaiajr@ecf.axosfs.com
 Jennifer Ellen Wuebker on behalf of Trustee Harry Shaia, Jr jwuebker@wtplaw.com,
 rodom@wtplaw.com
 Jennifer McLain McLemore on behalf of Creditor Tanglewood Venture, LLC
 jmclemore@williamsnullen.com, avaughn@williamsnullen.com;jmclemore76@gmail.com
 John Darren Sadler on behalf of Creditor Scott Seldin-Broadway, LLC sadlerj@ballardspahr.com,
 andersonn@ballardspahr.com
 John Darren Sadler on behalf of Creditor Tucson 5151 Investments, LLC
 sadlerj@ballardspahr.com, andersonn@ballardspahr.com
 John Darren Sadler on behalf of Creditor KCI Broadway, LLC sadlerj@ballardspahr.com,
 andersonn@ballardspahr.com
 John Darren Sadler on behalf of Creditor Belmont-Broadway, LLC sadlerj@ballardspahr.com,
 andersonn@ballardspahr.com
 John P. Fitzgerald, III USTPRegion04.RH.ECF@usdoj.gov
 Kimberly A. Taylor on behalf of Trustee Harry Shaia, Jr ktaylor@kbbplc.com
 Loc Pfeiffer on behalf of Debtor Delta Career Education Corporation
 loc.pfeiffer@kutakrock.com, karen.thornton@kutakrock.com
 Mitchell B. Weitzman on behalf of Creditor STG International, Inc. mweitzman@jackscamp.com,
 swatson@jackscamp.com;iluaces@jackscamp.com;lloucks@jackscamp.com
 Paul J. Feinman on behalf of Creditor Melissa Susie Rowland pfeinman@pldrlaw.com,
 p.j.feinman@gmail.com
 Peter J. Barrett on behalf of Debtor Academy of Court Reporting, Inc.
 peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
 Peter J. Barrett on behalf of Debtor Berks Technical Institute, Inc.
 peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
 Peter J. Barrett on behalf of Debtor Atlantic Coast Colleges, Inc.
 peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
 Peter J. Barrett on behalf of Debtor Creative Circus, Inc. peter.barrett@kutakrock.com,
 charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com

District/off: 0422-7

User: manleyc
Form ID: pdford9

Page 2 of 2
Total Noticed: 1

Date Rcvd: May 09, 2019

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system (continued)

Peter J. Barrett on behalf of Debtor Piedmont Business Colleges, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor Delta Educational Systems, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor Southwest Business Colleges, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor McCann Education Centers, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Defendant Delta Career Education Corporation
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor Miller-Motte Business College, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor The Miami-Jacobs Business College Company
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor McCann School of Business and Technology, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor Delta Career Education Corporation
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor National Career Education, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Peter J. Barrett on behalf of Debtor Palmetto Technical College, Inc.
peter.barrett@kutakrock.com, charisse.matthews@kutakrock.com;lynda.wood@kutakrock.com
Robert P. McIntosh on behalf of Interested Party United States of America
Robert.McIntosh@usdoj.gov,
USAVAE.RIC.ECF.CIVIL@usdoj.gov;Heidi.E.Bokor@usdoj.gov;HBokor@usa.doj.gov
Ronald A. Page, Jr. on behalf of Creditor Testout Corporation rpage@rpagelaw.com,
r59927@notify.bestcase.com
Sarah Beckett Boehm on behalf of Interested Party Field Point Agency Services, Inc.
sboehm@mcguirewoods.com
Sarah Beckett Boehm on behalf of Creditor STVT-AAI Education Inc. sboehm@mcguirewoods.com
Tammy L. Sossei on behalf of Creditor Lamikka S Bell tammy.sossei@sosseilaw.com
Vernon E. Inge, Jr. on behalf of Trustee Harry Shaia, Jr vinge@wtplaw.com, eslate@wtplaw.com
William A. Broschious on behalf of Trustee Harry Shaia, Jr wbroschious@kbbplc.com

TOTAL: 39